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Patent
247/062

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Tsugita et al.

Serial No.: 09/467,293

Filed: December 17, 1999

For: **BALLOON OCCLUSION DEVICE
AND METHODS OF USE**

Group Art Unit: 3763

Examiner: M. Mendez

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REQUEST TO REVERSE HOLDING OF ABANDONMENT
UNDER MPEP §711.03(e)

Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants thank the Examiner for taking time to discuss this application on January 2, 2002. On November 14, 2001, Applicants submitted a Response to the Office Action dated May 18, 2001, along with a petition and fee for three-month extension of time. Copies of these materials are enclosed. Receipt by the Patent Office on November 14, 2001, was acknowledge by return postcard (copy enclosed). A Notice of Abandonment was mailed in error on December 1, 2001.

The above facts were explained to the Examiner during the telephone discussion on January 2, 2002. The Examiner asked that Applicants submit this communication to complete the record of the above application.

CERTIFICATE OF MAILING (37 C.F.R. §1.10)

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Cynthia B. Pacheco
Cynthia B. Pacheco



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247/062

Applicants believe that no fees are required in connection with this communication. However, the Commissioner is hereby authorized to charge any additional fees, which may be required, to Deposit Account No. 12-2475.

Respectfully submitted,

LYON & LYON LLP

Dated: January 2, 2002

By:

John Kappos

John Kappos

Reg. No. 37,861

Attorneys for Applicants

JCK/cp
633 West Fifth Street, Suite 4700
Los Angeles, California 90071-2066
(949) 567-2300 or (213) 489-1600

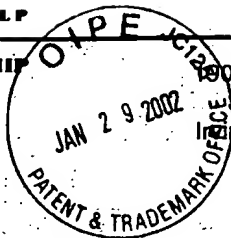
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Applicant: TSUGITA et al.

Serial No.: 09/467,293

For: BALLOON OCCLUSION DEVICE AND METHODS OF USE

Attorney: BLS/cp

Docket No.: 247/062

Please acknowledge receipt of the following by affixing hereon the Patent and Trademark Office date stamp and returning this card to our office.

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RESPONSE TO OFFICE ACTION

In response to the Office Action mailed May 18, 2001, please consider the following.

REMARKS

Reconsideration of the rejections set forth in the Office Action dated May 18, 2001, is respectfully requested.

The Examiner rejected claims 19 and 23–28 under 32 U.S.C. 102(b) as being anticipated by Barbut, et al., U.S.P.N. 5,769,816. Applicant calls the Examiner's attention to the reference date of the cited art, which is June 23, 1998, the issue date of the patent. Applicant attaches the filing receipt for the pending application as Exhibit A. Referring to Exhibit A, the present application is a CPA of U.S.S.N. 09/467/293, filed December 17, 1999, which is a continuation of U.S.S.N. 09/387,634, now U.S.P.N. 6,176,851, filed August 31, 1999, which is a continuation of U.S.S.N. 08/993,202, now U.S.P.N. 6,048,331, filed December 18, 1997, which is a continuation-in part of U.S.S.N. 08/854,806, now U.S.P.N. 6,231,544, filed May 12, 1997, which is a continuation-in part of U.S.S.N. 08/645,762, now abandoned, filed May 14, 1996.

Applicant respectfully asserts that the Examiner's rejection is improper for a 102(b) rejection, because the reference date of the art cited does not predate the effective date of the application by at least a year. Setting aside, for the moment, the continuations-in-part in the domestic priority lineage, the present application is at least entitled to a filing date of December 18, 1997, the earliest date from which priority is claimed through continuations. (Earlier dates are claimed through continuations-in-part, the analysis of which is not required for the purposes of responding to this Office Action.) Thus, the effective date of the present application is at least as early as December 18, 1997, which predates the reference date of the cited art, June 23, 1998.

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Patent
247/062

For the reasons listed above, the art cited by the Examiner cannot stand as a 102(b) reference to the present application. Thus, Applicant respectfully requests reconsideration and favorable action on the merits of the claims of this Continuing Prosecution Application. The Commissioner is hereby authorized to charge any additional fees, which may be required, to Deposit Account No. 12-2475.

Respectfully submitted,

LYON & LYON LLP

Dated: November 14, 2001

By: Bonita L. Severy
Bonita L. Severy
Reg. No. 43,913
Attorneys for Applicants

BLS/cp
633 West Fifth Street, Suite 4700
Los Angeles, California 90071-2066
(949) 567-2300 or (213) 489-1600

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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/467,293	12/17/1999	3763	443	247/062	20	27	2

22249
LYON & LYON LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071



CONFIRMATION NO. 2206
CORRECTED FILING RECEIPT



OC00000006875704

Date Mailed: 10/09/2001

Receipt is acknowledged of a CPA in this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

ROSS S. TSUGITA, MOUNTAIN VIEW, CA;
TRACY D. MAAHS, SANTA CLARA, CA;

Domestic Priority data as claimed by applicant

THIS APPLICATION IS A CON OF 09/387,634 08/31/1999 PAT 6,176,851
WHICH IS A CON OF 08/993,202 12/18/1997 PAT 6,048,331
WHICH IS A CIP OF 08/854,806 05/12/1997 PAT 6,231,544
WHICH IS A CIP OF 08/645,762 05/14/1996 ABN

Foreign Applications

If Required, Foreign Filing License Granted 02/03/2000

CPA filed on: 02/20/2001

Projected Publication Date: 01/17/2002

Non-Publication Request: No

Early Publication Request: No

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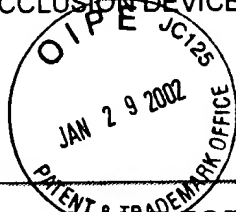
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BALLOON OCCLUSION DEVICE AND METHODS OF USE

Preliminary Class

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